

# SENATE BILL NO. 357

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SATER.

Read 1st time February 7, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1864S.01I

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### AN ACT

To repeal section 338.010, RSMo, and to enact in lieu thereof one new section relating to the practice of pharmacy.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 338.010, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 338.010, to read as follows:

338.010. 1. The "practice of pharmacy" means the interpretation,  
2 implementation, and evaluation of medical prescription orders, including any  
3 legend drugs under 21 U.S.C. Section 353; receipt, transmission, or handling of  
4 such orders or facilitating the dispensing of such orders; the designing, initiating,  
5 implementing, and monitoring of a medication therapeutic plan as defined by the  
6 prescription order so long as the prescription order is specific to each patient for  
7 care by a pharmacist; the compounding, dispensing, labeling, and administration  
8 of drugs and devices pursuant to medical prescription orders and administration  
9 of viral influenza, pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,  
10 tetanus, pertussis, and meningitis vaccines by written protocol authorized by a  
11 physician for persons at least seven years of age or the age recommended by the  
12 Centers for Disease Control and Prevention, whichever is higher, or the  
13 administration of pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,  
14 tetanus, pertussis, meningitis, and viral influenza vaccines by written protocol  
15 authorized by a physician for a specific patient as authorized by rule; the  
16 participation in drug selection according to state law and participation in drug  
17 utilization reviews; the proper and safe storage of drugs and devices and the  
18 maintenance of proper records thereof; consultation with patients and other  
19 health care practitioners, and veterinarians and their clients about legend drugs,  
20 about the safe and effective use of drugs and devices; [and] the offering or  
21 performing of those acts, services, operations, or transactions necessary in the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

22 conduct, operation, management and control of a pharmacy; **and the provision**  
23 **of medication therapy services, including authority to prescribe drugs**  
24 **and controlled substances, according to a written medication therapy**  
25 **services protocol.** No person shall engage in the practice of pharmacy unless  
26 he is licensed under the provisions of this chapter. This chapter shall not be  
27 construed to prohibit the use of auxiliary personnel under the direct supervision  
28 of a pharmacist from assisting the pharmacist in any of his or her duties. This  
29 assistance in no way is intended to relieve the pharmacist from his or her  
30 responsibilities for compliance with this chapter and he or she will be responsible  
31 for the actions of the auxiliary personnel acting in his or her assistance. This  
32 chapter shall also not be construed to prohibit or interfere with any legally  
33 registered practitioner of medicine, dentistry, or podiatry, or veterinary medicine  
34 only for use in animals, or the practice of optometry in accordance with and as  
35 provided in sections 195.070 and 336.220 in the compounding, administering,  
36 prescribing, or dispensing of his or her own prescriptions.

37         2. Any pharmacist who [accepts a prescription order for a medication  
38 therapeutic plan] **provides medication therapy services** shall have a written  
39 **medication therapy services** protocol from the physician [who refers the  
40 patient for medication therapy services]. The written **medication therapy**  
41 **services** protocol [and the prescription order for a medication therapeutic plan]  
42 shall come from the physician only, and shall not come from a nurse engaged in  
43 a collaborative practice arrangement under section 334.104, **or an assistant**  
44 **physician in accordance with section 334.037** or from a physician assistant  
45 engaged in a supervision agreement under section 334.735.

46         3. Nothing in this section shall be construed as to prevent any person,  
47 firm or corporation from owning a pharmacy regulated by sections 338.210 to  
48 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

49         4. Nothing in this section shall be construed to apply to or interfere with  
50 the sale of nonprescription drugs and the ordinary household remedies and such  
51 drugs or medicines as are normally sold by those engaged in the sale of general  
52 merchandise.

53         5. No health carrier as defined in chapter 376 shall require any physician  
54 with which they contract to enter into a written protocol with a pharmacist for  
55 medication [therapeutic] **therapy** services.

56         6. This section shall not be construed to allow a pharmacist to diagnose  
57 [or independently prescribe pharmaceuticals].

58           7. The state board of registration for the healing arts, under section  
59 334.125, and the state board of pharmacy, under section 338.140, shall jointly  
60 promulgate rules regulating the use of protocols [for prescription orders] for  
61 medication therapy services and administration of viral [influenza]  
62 vaccines. Such rules shall require protocols to include provisions allowing for  
63 timely communication between the pharmacist and the referring physician, and  
64 any other patient protection provisions deemed appropriate by both boards. In  
65 order to take effect, such rules shall be approved by a majority vote of a quorum  
66 of each board. Neither board shall separately promulgate rules regulating the  
67 use of protocols for prescription orders for medication therapy services and  
68 administration of viral influenza vaccines. Any rule or portion of a rule, as that  
69 term is defined in section 536.010, that is created under the authority delegated  
70 in this section shall become effective only if it complies with and is subject to all  
71 of the provisions of chapter 536 and, if applicable, section 536.028. This section  
72 and chapter 536 are nonseverable and if any of the powers vested with the  
73 general assembly pursuant to chapter 536 to review, to delay the effective date,  
74 or to disapprove and annul a rule are subsequently held unconstitutional, then  
75 the grant of rulemaking authority and any rule proposed or adopted after August  
76 28, 2007, shall be invalid and void.

77           8. The state board of pharmacy may grant a certificate of medication  
78 [therapeutic plan] **therapy services** authority to a licensed pharmacist who  
79 submits proof of successful completion of a board-approved course of academic  
80 clinical study beyond a bachelor of science in pharmacy, including but not limited  
81 to clinical assessment skills, from a nationally accredited college or university,  
82 or a certification of equivalence issued by a nationally recognized professional  
83 organization and approved by the board of pharmacy.

84           9. Any pharmacist who has received a certificate of medication  
85 [therapeutic plan] **therapy services** authority may engage in the [designing,  
86 initiating, implementing, and monitoring of a medication therapeutic plan as  
87 defined by a prescription order from a physician that is specific to each patient  
88 for care by a pharmacist] **provision of medication therapy services**.

89           10. Nothing in this section shall be construed to allow a pharmacist to  
90 make a therapeutic substitution of a pharmaceutical prescribed by a physician  
91 unless authorized by the written **medication therapy services** protocol or the  
92 physician's prescription order.

93           11. "Veterinarian", "doctor of veterinary medicine", "practitioner of

94 veterinary medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)",  
95 "VMB", "MRCVS", or an equivalent title means a person who has received a  
96 doctor's degree in veterinary medicine from an accredited school of veterinary  
97 medicine or holds an Educational Commission for Foreign Veterinary Graduates  
98 (EDFVG) certificate issued by the American Veterinary Medical Association  
99 (AVMA).

100 12. In addition to other requirements established by the joint  
101 promulgation of rules by the board of pharmacy and the state board of  
102 registration for the healing arts:

103 (1) A pharmacist shall administer vaccines by protocol in accordance with  
104 treatment guidelines established by the Centers for Disease Control and  
105 Prevention (CDC);

106 (2) A pharmacist who is administering a vaccine shall request a patient  
107 to remain in the pharmacy a safe amount of time after administering the vaccine  
108 to observe any adverse reactions. Such pharmacist shall have adopted emergency  
109 treatment protocols;

110 (3) In addition to other requirements by the board, a pharmacist shall  
111 receive additional training as required by the board and evidenced by receiving  
112 a certificate from the board upon completion, and shall display the certification  
113 in his or her pharmacy where vaccines are delivered.

114 13. A pharmacist shall inform the patient that the administration of the  
115 vaccine will be entered into the ShowMeVax system, as administered by the  
116 department of health and senior services. The patient shall attest to the  
117 inclusion of such information in the system by signing a form provided by the  
118 pharmacist. If the patient indicates that he or she does not want such  
119 information entered into the ShowMeVax system, the pharmacist shall provide  
120 a written report within fourteen days of administration of a vaccine to the  
121 patient's primary health care provider, if provided by the patient, containing:

- 122 (1) The identity of the patient;  
123 (2) The identity of the vaccine or vaccines administered;  
124 (3) The route of administration;  
125 (4) The anatomic site of the administration;  
126 (5) The dose administered; and  
127 (6) The date of administration.